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THE DIRECTV GROUP INC  
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EXAMINER

WILDER, PETER C

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/910,161

Applicant(s)

THOMPSON, BRIAN D.

Examiner

Peter C. Wilder

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19-35 and 37-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-35 and 37-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Note to Applicant***

Art Units 2611, 2614 and 2617 have changed to 2623. Please make sure all future correspondence indicate the new designation 2623.

### ***Response to Arguments***

On page 15 the applicant argues that the "channel key" does not inherently describe a "channel Up/Down Key."

The examiner points out that in Column 3 lines 15-16 that the "Ch key" (channel key) is some type of key used to manipulate channel changes. The reference does not teach a specific type of channel key because many different varieties are so well known in the art that it would be pointless to detail all the specific types. As long as the key can change the channel is all that is required to meet the limitations. Therefore, the examiner in the rejection of claim 1 is referring to an extremely well known type of channel key that is used to manipulate channel changes.

On page 16 middle of the page the applicant argues the use of "channel up key" and "channel down key" are not the same as the "channel key", and cites Column 1 and lines 42-47 for support that the reference use of the keys is undesirable.

The examiner notes that the context that the cited Column 1 lines 42-47 refers to a system that is trying to avoid having to use the up and down keys to search for a

specific channel while the reference to Column 3 lines 15-16 as cited in claim 1 refers to the same type of keys, but in a completely different context. In Column 3 lines 15-16 the "Ch key" which is a general reference to any type of key that manipulate a channel such as an (up and down key) is used to set up a stored tuning frequency or tuning frequency list.

Applicant's arguments, see bottom of page 17 through page 19 with respect to the rejection(s) of claim(s) 10, 11, 28, 46, 47, 11, and 29 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made see rejection below.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-9, 15, 16, 19-23, 26-27, 34, 37-41, and 44-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Amano et al. "Amano" (U.S. 5,323,240).

Regarding Claim 1, Amano discloses a method (figure 3) of computing a schedule of channels, comprising the steps of: accepting channel surfing commands having a series of commands to tune a plurality of channels sequentially from an ordered schedule of channels (F10 – figure 3; Col. 3, lines 12-17). Amano discloses the process for storing a tuning frequency begins when a user manipulates a channel key,

which typically is a channel up/down key that allows a user to channel surf through a schedule of channels.

Amano teaches, determining a duration of a time period during which each channel is tuned by the series of commands (F12 – figure 3; Col. 3, lines 19-21). Amano further discloses the process of counting the duration of time at which a channel is tuned is repeated every manipulation of a channel key (Col. 3, lines 36-38).

Amano teaches, prioritizing the schedule of channels according to the duration of the time period during which each channel is tuned by the series of commands (F16 – figure 3; Col. 3, lines 30-31). Amano discloses sort circuit 9c in figure 2, is used to sort the channels by rank in ascending order, where the highest rank channel is the channel viewed for the longest duration of time (Col. 2, lines 52-61). Amano further discloses rankings of all channels may be stored in memory, therefore creating a prioritized schedule of channels in ascending order according to rank (Col. 3, lines 34-35).

As for Claim 2, Amano teaches, the step of determining a duration of a time period during which each channel is tuned comprises the step of determining a duration of a time period between each of the series of commands (F12-F14 – figure 3; Col. 3, lines 19-26). Amano discloses the counter begins when a user first manipulates a channel key, such as channel up/down, and the counter ends when a channel key input is sensed.

Amano teaches, the step of prioritizing the schedule of channels according to a duration of a time period during which each channel is tuned comprises the step of

prioritizing the channels according to a duration of a time period between each of the series of commands (F15-F17 – figure 3; Col. 3, lines 26-32). Amano disclose in between each channel key input, a grade is given to the channel that is based on the duration at which the user tuned the channel. The sort circuit 9c then re-sorts the list based on the new grade for the channel and stores the new list in memory. Amano teaches this process is repeated after every manipulation of a channel key (Col. 3, lines 36-38).

As for Claim 3, Amano teaches, reordering the ordered schedule of channels according to the duration of the time period between each of the series of commands (F16 – figure 3; Col. 3, lines 30-31). Amano discloses sort circuit 9c in figure 2, is used to reorder the channels by rank in ascending order, where the highest rank channel is the channel viewed for the longest duration of time (Col. 2, lines 52-61). Amano further discloses rankings of all channels may be stored in memory, therefore creating a reordered schedule of channels in ascending order according to duration of time (Col. 3, lines 34-35).

As for Claim 4, Amano teaches, the ordered schedule of channels is reordered after each command of the series of commands (F16 – figure 3; Col. 3, lines 30-40). Amano discloses the steps of F10-F17 in figure 3 are repeated after every manipulation of the channel key.

As for Claim 5, Amano teaches, the ordered schedule of channels is reordered after all of the channels of the schedule of channels has been tuned (F16-F17 – figure 3; Col. 3, lines 30-40). Amano further discloses the rankings of all channels may be stored in the memory, so after the user has tuned to the last channel, the ordered schedule of channels have then been reordered.

As for Claim 8, Amano teaches, reordering the reordered schedule of channels in sequential order by disclosing a user can begin by manipulating the F key on the remote control to successively select broadcast stations in the order from a higher grade or “higher ranking” of tuning frequency to a lower grader or “lower ranking” of tuning frequency (Col. 4, lines 10-13), which instructs CPU 9 to reorder the schedule of channels. The reordered schedule of channels can then be reordered in sequential order by using the channel key, such as channel up or down, to sequentially step through each channel in order.

As for Claim 9, Amano teaches, reordering the ordered schedule of channels in sequential order is performed in response to a user command by disclosing a user can begin by manipulating the F key on the remote control to successively select broadcast stations in the order from a higher grade or “higher ranking” of tuning frequency to a lower grader or “lower ranking” of tuning frequency (Col. 4, lines 10-13), which instructs CPU 9 to reorder the schedule of channels. The user can command reordering the

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reordered schedule of channels by using the channel key, such as channel up or down, to reorder the reordered schedule of channels in sequential order.

As for Claim 15, Amano teaches, wherein the ordered schedule of channels is a subset of all available channels (Col. 3, lines 30-33). Amano discloses a subset of 10 channels may be sorted and stored in memory rather than all of the channels.

Regarding claim 16, Amano discloses a method (figure 3) of computing a schedule of channels comprising the steps of: accepting data indicative of user interest in media programs transmitted on a plurality of channels by disclosing reference numeral 7 represents an infrared-rays detector which is provided in correspondence to the remote commander (Col. 2, lines 41-44). A user can indicate interest in media programs by using remote commander and transmitting commands to the television receiver shown in figure 1.

Amano teaches, accepting channel surfing commands having a series of commands to tune a plurality of channels sequentially from schedule of channels (F10 – figure 3; Col. 3, lines 12-17). Amano discloses the process for storing a tuning frequency begins when a user manipulates a channel key, which typically is a channel up/down key that allows a user to channel surf through a schedule of channels.

Amano teaches, determining a duration of a time period during which each channel is tuned by the series of commands (F12 – figure 3; Col. 3, lines 19-21). Amano



further discloses the process of counting the duration of time at which a channel is tuned is repeated every manipulation of a channel key (Col. 3, lines 36-38).

Amano teaches, prioritizing the schedule of channels having a at least a subset of the plurality of channels according to the user interest in the media programs and the duration of the time period during which each channel is tuned by the series of commands (F16 – figure 3; Col. 3, lines 30-31). Amano discloses sort circuit 9c in figure 2, is used to sort the channels by rank in ascending order, where the highest rank channel is the channel viewed for the longest duration of time (Col. 2, lines 52-61).

Amano further discloses rankings of the top 10 or “subset” channels may be stored in memory, therefore creating a prioritized schedule of channels in ascending order according to rank (Col. 3, lines 31-35).

Regarding Claim 19, Amano teaches an apparatus (figure 1) for computing a schedule of channels (Col. 1, lines 52-59), comprising: means for accepting channel surfing commands (7 – figure 1) having a series of commands to tune a plurality of channels sequentially from an ordered schedule of channels (Col. 2, lines 41-44).

Amano discloses a viewer can use remote commander (shown in figure 1) to input up/down channel requests to television receiver (shown in figure 1), which allows a user to channel surf through a schedule of channels.

Amano teaches, means for determining a duration of a time period (9a – figure 2) during which each channel is tuned by the series of commands (Col. 2, lines 52-54).

Amano teaches, means for prioritizing the schedule of channels (9c – figure 2) according to the duration of the time period during which each channel is tuned by the series of commands (Col. 2, lines 52-59).

As for Claim 20, Amano teaches, means for determining a duration of a time period (9a – figure 2) during which each channel is tuned comprises means for determining a duration of a time period between each of the series of commands (F12-F14 – figure 3; Col. 3, lines 19-26). Amano discloses the counter begins when a user first manipulates a channel key, such as channel up/down, and the counter ends when a channel key input is sensed.

Amano further discloses, means for prioritizing the schedule of channels (9c – figure 2) according to a duration of a time period during which each channel is tuned comprises means for prioritizing the channels according to a duration of a time period between each of the series of commands (F15-F17 – figure 3; Col. 3, lines 26-32). Amano disclose in between each channel key input, a grade is given to the channel that is based on the duration at which the user tuned the channel. The sort circuit 9c then re-sorts the list based on the new grade for the channel and stores the new list in memory. Amano teaches this process is repeated after every manipulation of a channel key (Col. 3, lines 36-38).

As for Claim 21, Amano teaches, means for reordering (9c – figure 2) the ordered schedule of channels according to the duration of the time period between each

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of the series of commands (F16 – figure 3; Col. 3, lines 30-31). Amano discloses sort circuit 9c in figure 2, is used to reorder the channels by rank in ascending order, where the highest rank channel is the channel viewed for the longest duration of time (Col. 2, lines 52-61). Amano further discloses rankings of all channels may be stored in memory, therefore creating a reordered schedule of channels in ascending order according to duration of time (Col. 3, lines 34-35).

Considering Claim 22, the claimed elements of the ordered schedule of channels is reordered after each command of the series of commands, corresponds with subject matter mentioned above in the rejection of claim 4, and is likewise treated.

Considering Claim 23, the claimed elements of the schedule of channels is reordered after all of the channels of the schedule of channels has been tuned, corresponds with subject matter mentioned above in the rejection of claim 5, and is likewise treated.

Considering Claim 26, the claimed elements means for reordering the reordered schedule of channels in sequential order, corresponds with subject matter mentioned above in the rejection of claim 8, and is likewise treated.

Considering Claim 27, the claimed elements means for reordering the ordered schedule of channels in sequential order is performed in response to a user command,

corresponds with subject matter mentioned above in the rejection of claim 9, and is likewise treated.

Regarding Claim 34, Amano discloses an apparatus (figure 1) of computing a schedule of channels comprising: means for accepting data (7 – figure 1) indicative of user interest in media programs transmitted on a plurality of channels by disclosing reference numeral 7 represents an infrared-rays detector which is provided in correspondence to the remote commander (Col. 2, lines 41-44). A user can indicate interest in media programs by using remote commander and transmitting commands to the television receiver shown in figure 1.

Amano teaches, means for accepting (figure 1) channel surfing commands having a series of commands to tune a plurality of channels sequentially from schedule of channels (F10 – figure 3; Col. 3, lines 12-17). Amano discloses the process for storing a tuning frequency begins when a user manipulates a channel key, which typically is a channel up/down key that allows a user to channel surf through a schedule of channels.

Amano teaches, means for determining (9a – figure 2) a duration of a time period during which each channel is tuned by the series of commands (F12 – figure 3; Col. 3, lines 19-21). Amano further discloses time counting circuit 9a is used to execute the process of counting the duration of time at which a channel is tuned is repeated every manipulation of a channel key (Col. 3, lines 36-38).

Amano teaches, means for prioritizing (9c – figure 1) the schedule of channels having a at least a subset of the plurality of channels according to the user interest in the media programs and the duration of the time period during which each channel is tuned by the series of commands (F16 – figure 3; Col. 3, lines 30-31). Amano discloses sort circuit 9c in figure 2, is used to sort the channels by rank in ascending order, where the highest rank channel is the channel viewed for the longest duration of time (Col. 2, lines 52-61). Amano further discloses rankings of the top 10 or “subset” channels may be stored in memory, therefore creating a prioritized schedule of channels in ascending order according to rank (Col. 3, lines 31-35).

Regarding Claim 37, Amano discloses an apparatus (figure 1) for computing a schedule of channels, comprising: a user interface (7 – figure 1) for accepting channel surfing commands having a series of commands to tune a plurality of channels sequentially from an ordered schedule of channels (Col. 2, lines 41-44). Amano further discloses a user can manipulate the channel up/down keys on remote commander (shown in figure 1), which allows a user to channel surf through a schedule of channels. Amano teaches, a processor (9 – figure 1), communicatively coupled to a memory (9d – figure 2), the processor implementing a timer for determining a duration of a time period during which each channel is tuned (9a – figure 2; Col. 2, lines 52-54) and prioritizing the schedule of channels according to the duration of the time period during which each channel is tuned by the series of commands (9c – figure 2; Col. 2, lines 52-59).

As for Claim 38, Amano teaches, the processor (9 – figure 1) determines a duration of a time period during which each channel is tuned (9a – figure 1) (F12-F14 – figure 3; Col. 3, lines 19-26). Amano discloses the counter begins when a user first manipulates a channel key, such as channel up/down, and the counter ends when a channel key input is sensed.

Amano further teaches, the processor prioritizes the schedule of channels (9c – figure 2) according to a duration of a time period during which each channel is tuned by prioritizing the channels according to a duration of a time period between each of the series of commands (F15-F17 – figure 3; Col. 3, lines 26-32). Amano disclose in between each channel key input, a grade is given to the channel that is based on the duration at which the user tuned the channel. The sort circuit 9c then re-sorts the list based on the new grade for the channel and stores the new list in memory. Amano teaches this process is repeated after every manipulation of a channel key (Col. 3, lines 36-38).

As for Claimed 39, Amano teaches, the processor (9 – figure 1) prioritizes the schedule of channels according to a duration of a time period during which each channel is tuned by reordering the ordered schedule of channels according to the duration of the time period between each of the series of commands (F16 – figure 3; Col. 3, lines 30-31). Amano discloses sort circuit 9c in figure 2, is used to reorder the channels by rank in ascending order, where the highest rank channel is the channel viewed for the longest duration of time (Col. 2, lines 52-61). Amano further discloses

rankings of all channels may be stored in memory, therefore creating a reordered schedule of channels in ascending order according to duration of time (Col. 3, lines 34-35).

Considering claim 40, the claimed elements of wherein the ordered schedule of channels is reordered after each command of the series of commands, corresponds with subject matter mentioned above in the rejection of claim 4, and is likewise treated.

Considering Claim 41, the claimed elements of wherein the ordered schedule of channels is reordered after all of the channels of the schedule of channels has been tuned, corresponds with subject matter mentioned above in the rejection of claim 5, and is likewise treated.

As for Claim 44, the claimed "the processor further reorders the schedule of channels in sequential order" is rejected based on similar grounds as the rejection of claim 8.

As for Claim 45, the claimed "the processor reorders the schedule of channels in sequential order in response to a user command" is rejected based on similar grounds as the rejection of claim 9.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5,323,240) in view of Bedard (U.S. 5,801,747).

Referring to claim 11, depending on claim 1, Amano fails to teach determining which of the time periods exceeds a threshold time period and segmenting the channels into a first segment having channels associated with a time period exceeding the threshold time period and a second segment having channels associated with a time period not exceeding the threshold time period.

In an analogous art Bedard teaches determining which of the time periods exceeds a threshold time period (Column 3 lines 63-67 and Column 4 lines 1-15)

segmenting the channels into a first segment having channels associated with a time period exceeding the threshold time period and a second segment having channels associated with a time period not exceeding the threshold time period (Column 3 lines 63-67 and Column 4 lines 1-15).

At the time the invention was made it would have been obvious for one skilled in the art to modify the program ordering based on viewing time function/device of Amano



using the segmenting by time duration function/device of Bedard for the purpose of ignoring insignificant viewing periods so as to focus upon viewer's true interests (Column 4 lines 1-3, Bedard).

Referring to claim 47, depending on claim 37, see the rejection of claim 11.

Claims 12 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5,323,240) in view of Bedard (U.S. 5801747) further in view of Candelore et al. (U.S. 2002/0104081 A1).

Referring to claim 12, depending on claim 11, Amano and Badard fail to teach ordering the channels in the first segment according to the duration of the time period associated with each channel; and ordering the channels in the second segment according to the duration of the time period associated with each channel.

In an analogous art Candelore teaches ordering the channels in the first segment according to the duration of the time period associated with each channel (Paragraph [0046] and [0047] teaches the list of programs in the first segment/favorite list are ordered according to the amount time watched); and

ordering the channels in the second segment according to the duration of the time period associated with each channel (Paragraph [0045] and [0046] teaches ordering the programs in the second segment/stat table 406 by how much the program was watched).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined references of Amano and Badard using the channel ordering function/device of Candelore for the purpose of more efficiently navigating through his/her favorite channels while skipping channels that are not often viewed.

Referring to claim 48, depending on claim 47, see the rejection of claim 12.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5,323,240) in view of Wugofski (U.S. 2003/0056216 – as cited in previous office actions).

Regarding Claim 14, Amano fails to teach de-prioritizing a selected channel in the schedule of channels in response to a user input.

In an analogous art, Wugofski '216 teaches favorites services 8 provides favorites list management functions, and also a set of common user interfaces for selecting a favorite item from a list, adding an item to a favorite list, and removing an item from a favorite list. (page 3, ¶ 31). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Amano with the teachings of Wugofski '216 in order to allow a user to de-prioritize a selected channel in the schedule of channels for the purpose of providing added flexibility to the user in managing lists of favorite channels.

Claims 17 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5,323,240) in view of Wugofski '843 (WO 99/35843 – as cited in previous office actions).

Regarding Claim 17, Amano fails to teach wherein the data indicative of the user interest in the media program is selected from a group comprising: a list having at least one uniform resource locator.

In an analogous art, Wugofski '843 teaches a list (figure 5B) having at least one uniform resource locator by disclosing a favorite channel list which comprises both television channels and Internet channels as shown in figure 5B (page 13, lines 4-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Amano with the teachings of Wugofski '843 in order to combine a URL with the list of favorite channels. One would have been motivated to make this modification in order to facilitate a user viewing multiple channel and Internet favorite lists into a single list.

Considering Claim 35, the claimed elements of wherein the data indicative of the user interest in the media program is selected from a group comprising: a list having at least one uniform resource locator, corresponds with subject matter mentioned above in the rejection of claim 17, and is likewise treated.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5323240) in view of Bedard as applied to claim 24 above, and further in view of Wugofski "Wugofski '216" (U.S. 2003/0056216).

As to Claim 32, the combination of Amano and Bedard fail to teach means for de-prioritizing a selected channel in the schedule of channels in response to a user input.

In an analogous art, Wugofski '216 teaches means (8 – figure 2) for de-prioritizing a selected channel in the schedule of channels in response to a user input by disclosing favorites services 8 provides favorites list management functions, and also a set of common user interfaces for selecting a favorite item from a list, adding an item to a favorite list, and removing an item from a favorite list. (page 3, ¶ 31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Amano and Bedard with the teachings of Wugofski '216 in order to allow a user to de-prioritize a selected channel in the schedule of channels to facilitate a user keeping an up-to-date list by removing channels he/she may no longer be interested in viewing.

Claims 7, 25, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5323240) in view of Trovato et al. (U.S. 6445306 B1).

Referring to claim 7, depending on claim 3, Amano fails to teach weighting at least a portion of the time periods according to a time difference between a current time and a time when each channel associated with each time period was last tuned.

In an analogous art, Trovato teaches teach weighting at least a portion of the time periods according to a time difference between a current time and a time when each channel associated with each time period was last tuned (Column 7 lines 28-36 teaches how the time since a user last viewed a program can effect it weighting and ultimately its location in a program list).

At the time the invention was made it would have been obvious for one skilled in the art to modify the program ordering based on viewing time function/device of Amano using the program weighting based on time periods function/device of Trovato for the purpose of building an enhanced and improved list based upon expressed and implied preferences that are determined, for example, by a history of the user's past selections and/or past rejections (Column 2 lines 58-63, Trovato).

Referring to claim 25, depending on claim 21, see the rejection of claim 7.

Referring to claim 43, depending on claim 39, see the rejection of claim 7 (Column 7 lines 16-20 teach a computer which has a processor).

Claims 6, 24, 33, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5323240) in view of White (U.S. 2002/0056098 A1).

Referring to claim 6, depending on claim 3, Amano fails to teach the ordered schedule of channels is further ordered according to a time elapsed since the channel was last tuned.

In an analogous art White teaches ordered schedule of channels is further ordered according to a time elapsed since the channel was last tuned (Figure 8 and Paragraph [0054]).

At the time the invention was made it would have been obvious for one skilled in the art to modify the program ordering based on viewing time function/device of Amano using the ordering by last tuned function/device of White for the purpose of easy selection by the user (Paragraph [0004], White).

Referring to 24, depending on claim 21, the claimed "ordered schedule of channels is further ordered according a time elapsed since the channel was last tuned" is rejected based on similar grounds as the rejection of Claim 6.

Referring to claim 33, depending on claim 24, White teaches wherein the ordered schedule of channels is a subset of all available channels (Figure 8 and Paragraph [0054] are ordered and each screen displays what is currently schedule on the respective channels).

Referring to claim 42, depending on claim 39, the claimed elements of wherein the ordered schedule of channels is further ordered according a time elapsed since the channel was last tuned, corresponds with subject matter mentioned above in the rejection of claim 6, and is likewise treated.

Claims 10, 28, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amano in view of Bonomi et al. (U.S. 6769127 B1).

Referring to claim 10, depending on claim 8, Amano fails to teach each of the channels in the schedule of channels is associated with a media program; and

the step of reordering schedule of channels in sequential order is performed at a time associated with a change in a threshold number of the media programs associated with the channels in the schedule of channels.

In an analogous art Bonomi teaches each of the channels in the schedule of channels is associated with a media program (Figure 15C element 1540); and

the step of reordering schedule of channels in sequential order is performed at a time associated with a change in a threshold number of the media programs associated with the channels in the schedule of channels (Column 18 lines 53-67 and Column 19 lines 1-14 and Column 34 lines 35-41).

At the time the invention was made it would have been obvious for one skilled in the art to modify the program ordering based on viewing time function/device of Amano

using the reordering of the program guide when it updated function/device of Bonomi for the purpose of providing a program guide to better suit a viewers habits or preferences (Column 34 lines 39-41, Bonomi).

Referring to claim 28, depending on claim 26, see the rejection of claim 10.

Referring to claim 46, depending on claim 44, see the rejection of claim 10.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5,323,240) in view of White (U.S. 2002/0056098 A1) further in view of Bedard (U.S. 5801747)

Referring to claim 29, depending on claim 24, Amano and White fail to teach determining which of the time periods exceeds a threshold time period and segmenting the channels into a first segment having channels associated with a time period exceeding the threshold time period and a second segment having channels associated with a time period not exceeding the threshold time period.

In an analogous art Bedard teaches determining which of the time periods exceeds a threshold time period (Column 3 lines 63-67 and Column 4 lines 1-15)

segmenting the channels into a first segment having channels associated with a time period exceeding the threshold time period and a second segment having channels



associated with a time period not exceeding the threshold time period (Column 3 lines 63-67 and Column 4 lines 1-15).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined functions/devices of Amano and White using the segmenting by time duration function/device of Bedard for the purpose of ignoring insignificant viewing periods so as to focus upon viewer's true interests (Column 4 lines 1-3, Bedard).

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amano (U.S. 5,323,240) in view of White (U.S. 2002/0056098 A1) further in view of Bedard (U.S. 5801747) further in view of Candelore et al. (U.S. 2002/0104081 A1).

Referring to claim 30, depending on claim 29, Amano, White, and Badard fail to teach ordering the channels in the first segment according to the duration of the time period associated with each channel; and ordering the channels in the second segment according to the duration of the time period associated with each channel.

In an analogous art Candelore teaches ordering the channels in the first segment according to the duration of the time period associated with each channel (Paragraph [0046] and [0047] teaches the list of programs in the first segment/favorite list are ordered according to the amount time watched); and

ordering the channels in the second segment according to the duration of the time period associated with each channel (Paragraph [0045] and [0046] teaches

ordering the programs in the second segment/stat table 406 by how much the program was watched).

At the time the invention was made it would have been obvious for one skilled in the art to modify the combined references of Amano, White, and Badard using the channel ordering function/device of Candelore for the purpose of more efficiently navigating through his/her favorite channels while skipping channels that are not often viewed.

#### ***Allowable Subject Matter***

Claims 13, 31, and 49 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter C. Wilder whose telephone number is 571-272-2826. The examiner can normally be reached on 8 AM - 4PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571)272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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